

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
SID AVERY AND ASSOCIATES, INC., d/b/a:
MPTV IMAGES, :

Plaintiff, :

- against - :

PARALLEL BAR INC., d/b/a THE SUMMIT :
BAR, HAMID RASHIDZADA, and GREG :
SEIDER :

Defendants. :
-----X

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19-CV-7112 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff Sid Avery and Associates, Inc. (“SAAI” or “Plaintiff”) brings this copyright infringement action against Parallel Bar Inc. (“PBI”), Hamid Rashidzada, and Greg Seider (collectively, “Defendants”) based on the unauthorized display on their website of Plaintiff’s copyrighted photograph entitled “Ocean’s Eleven Cast” (“Work”). On November 6, 2019, Plaintiff moved for an entry of default judgment based on Defendants’ failure to appear or respond to the complaint. (Doc. 17.) On April 28, 2020, I granted Plaintiff’s motion for default judgment, and referred the case to Magistrate Judge Kevin Nathaniel Fox for an inquest on damages and attorney’s fees. (Docs. 31–32.)

On June 15, 2020, Plaintiff filed a motion for damages and two supporting declarations. (Docs. 33–35.) Plaintiff sought “statutory damages of \$87,500.00 for the infringed Work, or in the alternative, no less than \$30,000.00 for the Work,” and \$4,714.75 in fees and costs. (Doc. 33 at 1.) On September 2, 2020, Judge Fox issued an order directing Plaintiff to effect service of its inquest submissions by September 11, 2020, and stated that Defendants’ oppositions would be due by September 25, 2020 and Plaintiff’s reply would be due by October 2, 2020. (Doc. 36.)

On September 10, 2020, Plaintiff filed affidavits of service. (Docs. 37–39.) Defendants never responded or requested an extension of time to file an opposition. On February 2, 2021, Judge Fox issued his Report and Recommendation (“Report and Recommendation” or “R&R”) recommending that Plaintiff’s motion for damages be granted, and that Plaintiff be awarded \$750 in statutory damages and \$4,714.75 in reasonable attorney’s fees and costs. (Doc. 40, R&R.)¹ Neither party filed an objection.

Before me is Judge Fox’s unobjected to Report and Recommendation, which recommends that Plaintiff’s motion for damages be granted, and that Plaintiff be awarded \$750 in statutory damages and \$4,714.75 in reasonable attorney’s fees and costs. In reviewing a magistrate judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific written objections to the report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews *de novo* the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or a portion thereof, a district court reviews the report and recommendation, or that portion, for clear error. *See Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Here, the Report and Recommendation was filed on February 2, 2021. Although the Report and Recommendation explicitly provided that “the parties shall have fourteen (14) days

¹ “R&R” refers to Judge Fox’s February 2, 2021 Report and Recommendation. (Doc. 40.)

from service of this Report to file written objections,” and that “[f]ailure to file objections within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” (R&R 10–11), neither party filed an objection. I therefore reviewed Judge Fox’s thorough and well-reasoned Report and Recommendation for clear error and, after careful review of the record, found none. Accordingly, I adopt the Report and Recommendation in its entirety. Plaintiff’s motion for damages, (Doc. 33), is GRANTED. Plaintiff is awarded (1) \$750 in statutory damages; and (2) \$4,714.75 in reasonable attorney’s fees and costs.

The Clerk’s Office is respectfully directed to terminate the motion at Doc. 33, to enter judgment, and to close this case.

SO ORDERED.

Dated: July 16, 2021
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first name "Vernon" is written with a large, prominent "V" and the last name "Broderick" follows in a similar cursive script.

Vernon S. Broderick
United States District Judge